

A.G. Contract No.: KR05-0498TRN
ECS File No.: JPA 05-048
Project No.:
Section: US 89 MP 419.41 to MP 420.87
Project: Pull Boxes
TRACS No.: N/A
Budget Source Item No.: 73306
District Minor

INTERGOVERNMENTAL AGREEMENT

BETWEEN
THE STATE OF ARIZONA
AND
THE CITY OF FLAGSTAFF

THIS AGREEMENT is entered into this date July 15, 2005, pursuant to Arizona Revised Statutes § 11-951 through 11-954, as amended, between the STATE OF ARIZONA, acting by and through its DEPARTMENT OF TRANSPORTATION (the "State") and the CITY OF FLAGSTAFF, acting by and through its MAYOR and CITY COUNCIL (the "City").

1. The State is empowered by Arizona Revised Statutes § 28-401 to enter into this Agreement and has delegated the undersigned the authority to execute this Agreement on behalf of the State.

2. The City is empowered by Arizona Revised Statutes § 48-572 to enter into this Agreement and has by resolution, a copy of which is attached hereto and made a part hereof, resolved to enter into this Agreement and has authorized the undersigned to execute this Agreement on behalf of the City.

3. The State has an existing project on US 89, wherein the State agrees to fund the cost for the City to install pull boxes for roadway lighting located at Milepost (MP) 419.41 – 420.87, hereinafter referred to as the "Project", and will abandon this section of right-of-way to the City under JPA 03-064, with the approval of the State's Transportation Board and upon transfer of funds, in a one-time lump sum amount, not to exceed \$18,000.00.

THEREFORE, in consideration of the mutual agreements expressed herein, it is agreed as follows:

NO. 27623
Filed with the Secretary of State
Date Filed: 7/15/05
Janice K. Brewer
Secretary of State
By: Harry Rosenthal

II. SCOPE OF WORK

1. The City shall:

- a. Upon execution of this Agreement, invoice the State for the one time lump sum amount, not to exceed \$18,000.00 for the Project.
- c. Waive the requirements of the Arizona Revised Statutes 28-7209 upon transfer of funds from the State
- d. Upon completion of the Project, provide for at its own cost and as an annual item in its budget, perpetual and proper maintenance to the pull boxes.

2. The State shall:

- a. Upon execution of this Agreement and within thirty-days (30) upon receipt and approval of an invoice from the City, remit to the City a one-time lump sum amount, not to exceed \$18,000.00 for the Project.
- b. Not be obligated to maintain the Project improvements, should the City fail to budget or provide for proper and perpetual maintenance as set forth in this Agreement.

III. MISCELLANEOUS PROVISIONS

1. The terms, conditions and provisions of this Agreement shall remain in full force and affect until the transfer of funds and the abandonment of said Project. Either party may cancel this Agreement at any time prior to the execution of this Agreement, upon thirty-days (30) written notice to either party. It is understood and agreed that, in the event the City cancels this Agreement, the State shall in no way be obligated to maintain said Project improvements.

2. The State assumes no financial obligation or liability under this Agreement, nor for any resulting construction project, other than those obligations and funding liabilities specifically set forth in this Agreement. It is understood and agreed that the State's participation is confined solely to that set forth under this Agreement.

3. This Agreement shall become effective upon filing with the Secretary of State.

4. This Agreement may be cancelled in accordance with Arizona Revised Statutes § 38-511.

5. The provisions of Arizona Revised Statutes § 35-214 are applicable to this Agreement.

6. In the event of any controversy, which may arise out of this Agreement, the parties hereto agree to abide by required arbitration as is set forth for public works contracts in Arizona Revised Statutes § 12-1518.

7. This Agreement is subject to all applicable provisions of the Americans with Disabilities Act (Public Law 101-336, 42 U.S.C. 121-1-12213) and all applicable Federal regulations under the Act including 28 CFR Parts 35 and 36. The parties to this Agreement shall comply with Executive Order Number 99-4 issued by the Governor of the State of Arizona, and incorporated herein by reference regarding "Non-Discrimination".

8. Non-Availability of Funds: Every payment obligation of the State under this Agreement is conditioned upon the availability of funds appropriated or allocated for the payment of such obligation. If funds are not allocated and available for the continuance of this Agreement, this Agreement may be terminated by the State at the end of the period for which the funds are available. No liability shall accrue to the State in the event this provision is exercised, and the State shall not be obligated or liable for any future payments or for any damages as a result of termination under this paragraph.

9 All notices or demands upon any party to this Agreement shall be in writing and shall be delivered in person or sent by mail addressed as follows:

Arizona Department of Transportation
Joint Project Administration
205 S. 17th Avenue – Mail Drop 616E
Phoenix, AZ 85007
(602) 712-7525

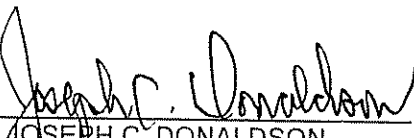
City of Flagstaff
Attn: Wm. L. Menard, Public Works Director
211 W. Aspen Avenue
Flagstaff, AZ 86001
(928) 779-7660

10 In accordance with Arizona Revised Statutes § 11-952, (D) attached hereto and incorporated herein is the written determination of each party's legal counsel that the parties are authorized under the laws of this State to enter into this Agreement and that this Agreement is in proper form.

IN WITNESS WHEREOF, the parties have executed this Agreement the day and year first above written

CITY OF FLAGSTAFF

STATE OF ARIZONA
Department of Transportation

By 
JOSEPH C. DONALDSON
Mayor

By 
SUSAN TELLEZ
Contract Administration

ATTEST:

By 
MARGIE BROWN
Clerk

JPA 05-048

APPROVAL OF THE CITY OF FLAGSTAFF

I have reviewed the above referenced intergovernmental Agreement between the DEPARTMENT OF TRANSPORTATION, INTERMODAL TRANSPORTATION DIVISION, and the CITY OF FLAGSTAFF, an Agreement among public agencies which, has been reviewed pursuant to A.R.S. § 11-951 through § 11-954 and declare this Agreement to be in proper form and within the powers and authority granted to the CITY under the laws of the State of Arizona. No opinion is expressed as to the authority of the State to enter into this Agreement.

DATED this 28th day of June, 2005.


City Attorney

CERTIFICATION

I, LAURA MATTHEWS, Acting City Clerk of the City of Flagstaff, Arizona, do hereby certify that the attached is a full, true, and correct copy of Resolution No. 2005-72 adopted by the Flagstaff City Council at their Meeting held June 21, 2005.

IN WITNESS WHEREOF, I have hereunto set my hand and impressed the official Seal of the City of Flagstaff, this 30th day of June, 2005.

Laura Matthews
ACTING CITY CLERK

(SEAL)

RESOLUTION NO. 2005-72

A RESOLUTION APPROVING AN INTERGOVERNMENTAL AGREEMENT BETWEEN THE STATE OF ARIZONA THROUGH THE DEPARTMENT OF TRANSPORTATION AND THE CITY OF FLAGSTAFF AUTHORIZING FUNDING FOR, AND THE INSTALLATION AND MAINTENANCE OF, ROADWAY LIGHTING PULL BOXES ON U.S. HIGHWAY 89 LOCATED FROM MILEPOST 419.41 TO 420.87.

WHEREAS, the State of Arizona through the Arizona Department of Transportation ("State") agrees to provide funding to the City of Flagstaff ("City") in a one-time lump sum payment amount of \$18,000.00 for the City's installation and maintenance of roadway lighting pull boxes on U.S. Highway 89 located from Milepost 419.41 to 420.87 ("Project"); and

WHEREAS, the State agrees to abandon to the City, by separate legal instrument, the section of right-of-way along U.S. Highway 89 which will adequately accommodate installation and maintenance of the Project improvements as described above; and

WHEREAS, the State and the City desire to enter into an intergovernmental agreement ("IGA"), a copy of which is submitted as an attachment to the Staff Summary Report in support of this Resolution, in order to authorize the State's funding of the Project and the City's obligations for the installation and maintenance of the Project improvements; and

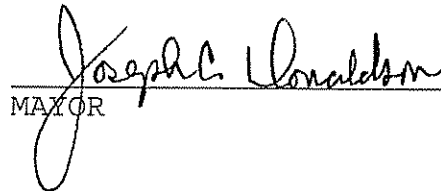
WHEREAS, the State and the City's Public Works Department desire to obtain City Council approval for the City's entry into the proposed IGA; and

WHEREAS, the City Council has reviewed the proposed IGA and finds that it is in the best interests of the City to enter into the IGA with the State.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF FLAGSTAFF AS FOLLOWS:

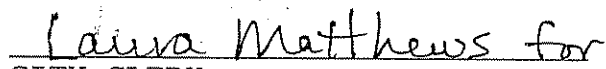
SECTION 1. That the Intergovernmental Agreement between the State and the City submitted as an attachment to the Staff Summary Report in support of this Resolution be hereby approved and the Mayor be authorized and directed to execute the Intergovernmental Agreement on behalf of the City of Flagstaff.

PASSED AND ADOPTED by the City Council and approved by the Mayor of the City of Flagstaff this 21st day of June, 2005.



MAYOR

ATTEST:



CITY CLERK

APPROVED AS TO FORM:



CITY ATTORNEY



OFFICE OF THE ATTORNEY GENERAL
STATE OF ARIZONA

TERRY GODDARD
ATTORNEY GENERAL

CIVIL DIVISION
TRANSPORTATION SECTION
WRITER'S DIRECT LINE: 602.542.8855

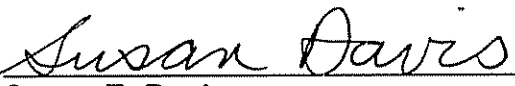
INTERGOVERNMENTAL AGREEMENT
DETERMINATION

A.G. Contract No. KR05-0498TRN (**JPA 05-048**), an Agreement between public agencies, i.e., *The State of Arizona* and *The City of Flagstaff*, has been reviewed pursuant to A.R.S. § 11-952, as amended, by the Undersigned Assistant Attorney General who has determined that it is in the proper form and is within the powers and authority granted to the State of Arizona.

No opinion is expressed as to the authority of the remaining Parties, other than the State or its agencies, to enter into said Agreement.

DATED: July 11, 2005

TERRY GODDARD
Attorney General



Susan E. Davis
Assistant Attorney General
Transportation Section

SED:mjf
Attachment
913568